

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

FREDERICK WAYNE SMITH,

Plaintiff,

v.

KATHLEEN ALLISON, et al.

Defendants.

No. 1:22-cv-01580-JLT-SAB (PC)

ORDER DENYING PLAINTIFF'S MOTION
REGARDING TRO AND AMEND TO
COMPLAINT

(ECF No. 50)

On February 8, 2024, the instant action filed pursuant to 42 U.S.C. § 1983, was dismissed, without prejudice, for failure to exhaust the administrative remedies and judgment was entered. (ECF Nos. 40, 41.)

Plaintiff filed a notice of appeal on February 23, 2024. (ECF No. 44.) On August 28, 2024, the United States Court of Appeals for the Ninth Circuit dismissed Plaintiff's appeal as frivolous and all pending motions for relief as moot. (ECF No. 48.) The mandate issued on September 19, 2024. (ECF No. 49.)

On October 15, 2024, Plaintiff filed the instant motion for TRO and to amend the complaint under Rule 41(a) of the Federal Rules of Appellate Procedure. (ECF No. 50.) Plaintiff requests the Court "to rerule [sic] contrary pursuant to summary judgment with and against

1 plaintiff because due process and equal protection den[i]ed.” (ECF No. 50 at 1.)

2 Federal Rule of Appellate Procedure 41(a) states “[u]nless the court directs that a formal
3 mandate issue, the mandate consists of a certified copy of the judgment, a copy of the court’s
4 opinion, if any, and any discretion about costs.” Fed. R. App. P. 41(a). The Court cannot
5 determine the nature of Plaintiff’s request as this Court has no jurisdiction to issue any orders
6 because the case has been resolved in its entirety. Accordingly, Plaintiff’s motion for relief filed
7 on October 15, 2024 (ECF No. 50) is DENIED.

8 IT IS SO ORDERED.

9 Dated: **October 16, 2024**


UNITED STATES MAGISTRATE JUDGE